

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Confirmation No. : 8534  
Appln. No. : 10/595,385  
Applicant : Marcus A. Horwitz *et al.*  
Filed : 04/13/2006  
TC/A.U. : 1645  
Examiner : Navarro, Albert Mark  
Docket No. : 1951326.00019  
Customer No. : 45200  
Title : Recombinant Intracellular Pathogen Immunogenic  
Compositions and Methods of Use

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Mail Stop Amendment  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

**DECLARATION OF MARCUS A. HORWITZ, GÜNTER HARTH AND  
MICHAEL V. TULLIUS UNDER 37 CFR §1.132**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

We, Marcus A. Horwitz, Günter Harth and Michael V. Tullius, declare the following:

1. We are co-inventors of the above-identified patent application, Serial No. 10/595,385.
2. We have read and are familiar with the Office Action mailed 11 August 2008 pertaining to this application.

3. We understand that in the Office Action mailed 11 August 2008, the Examiner rejected claims 27-32 and 41-43 under 35 U.S.C. §102(e) as allegedly being anticipated by Horwitz *et al.* (US 6,471,967, hereinafter "Horwitz").

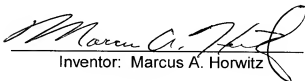
4. Two of us, Marcus A. Horwitz and Günter Harth, are also the inventors of Horwitz cited as prior art in the above-referenced application.

5. Marcus A. Horwitz and Günter Harth are the sole inventors of the subject matter of claims 27-32, 41-43 and new claims 44-46 of the above-referenced application.

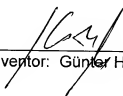
6. The disclosure in column 15 of Horwitz referring to intradermal injection of *Mycobacterium tuberculosis* 30 kDa major extracellular non-fusion protein to guinea pigs nine weeks after immunization with BCG or rBCG30 is the work of Marcus A. Horwitz and Günter Harth and is thus not an invention by another.

6. All statements made herein of our own knowledge are true and that all statements made on information and belief are believed to be true; and further, that the statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and such willful false statements may jeopardize the validity of the application or any patents issuing thereon.

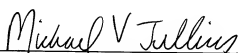
7. We further acknowledge my duty of candor and good faith in dealings before the United States Patent and Trademark Office related to the above entitled application pursuant to 37 C.F.R. §1.56.

  
Inventor: Marcus A. Horwitz

Date 11-10-08

  
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Inventor: Günter Harth

Date 11-10-2008

  
\_\_\_\_\_  
Inventor: Michael V. Tullius

Date 11-10-2008